

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

PAUL THIBODEAUX #1539087	§	
v.	§	CIVIL ACTION NO. 6:12cv362
JAMES CANTRELL, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Paul Thibodeaux, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The named Defendants in the case are Lt. James Cantrell and Lt. Robert Hazelwood.

Thibodeaux complained about a use of force incident which occurred on July 28, 2011. The case was administratively closed because Thibodeaux was facing criminal charges over the incident at the time he filed the lawsuit, but was reopened once these charges were resolved.

After the case was reopened, the Defendants answered the lawsuit and filed a motion for summary judgment arguing that their actions were objectively reasonable and that they applied force in a good faith effort to restore discipline rather than maliciously and sadistically for the very purpose of causing harm. Thibodeaux did not file a response to this motion.

After review of the pleadings and the evidence, the Magistrate Judge issued a Report recommending that the Defendants' motion for summary judgment be granted and that the lawsuit be dismissed with prejudice. Thibodeaux received a copy of the Report on or before September 13,

2013, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and evidence in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. See United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

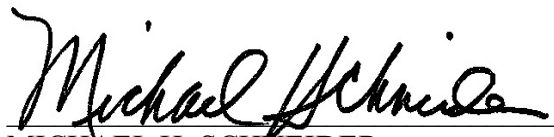
ORDERED that the Report of the Magistrate Judge (docket no. 29) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendants' motion for summary judgment (docket no. 25) is hereby **GRANTED** and the above-styled civil action is **DISMISSED WITH PREJUDICE**. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 17th day of October, 2013.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE